

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Lyndon

Local Law No. 3 of the year 20¹⁶

A local law THE HIGHWAY BONDING/FINANCIAL SECURITIES LAW OF THE TOWN OF LYNDON
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Lyndon as follows:

Be it enacted by the Town Board of the Town of Lyndon as follows:

Section 1: Purpose and Intent

1. WHEREAS, the Town Highway Superintendent has advised the Town of the necessity of requiring a bond or other financial security in order to hold responsible individual's or corporation's whose vehicular traffic causes a disproportional amount of wear and tear on the Town roads; and
2. WHEREAS, the Town Board also has a limited source of funds to pay for the repair of roads within the Town of Lyndon.

Section 2: Highway Superintendent Authority

1. Pursuant to the provisions of Article 7 of the Highway Law, Section 140(13), the Town Highway Superintendent has the duty to bring an action in the name of the Town, against any person or corporation, sustain the rights of the public, in and to any town highway in the town, and to enforce the performance of any duty enjoined upon any person or corporation in relation thereto, and to recover any damages sustained or suffered, or expenses incurred by such Town, and consequence of any act or omission of any such person or corporation, in violation of any law or contract in relation to such town highway.
2. Pursuant to Article 7, Section 140(17), the Town Highway Superintendent shall perform other duties and have such powers as may be imposed or conferred by law, or the rules and regulations of the Department of Transportation, including the powers and duties heretofore exercised or performed by highway commissioners;

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section 3: Town Authority

1. Pursuant to Vehicle and Traffic Law, Title 8, Article 41, Section 1660(11), the Town Board has the authority to temporarily exclude any portion of any town or highway, any vehicle of the gross weight of (four) 4 or more tons when in the Town Board's opinion such highway would be materially injured by the operation of any such vehicle thereon.

Section 4: Bonds and Financial Security Authorized

1. The Highway Superintendent shall have the authority to require the posting of a bond or other financial security when the vehicle has a gross weight of over 4 tons or more.
2. The Board gives the Highway Superintendent the authority to issue permits allowing the use of an excluded road upon the posting of a bond or other financial security.

Section 5: Permit Requirements

1. Bonds
 - a. To be eligible to receive a permit, an individual (whether a human person or a corporation) must post a bond or other financial security. Said bond is to be reasonable and may be up to \$500,000 but not less than \$10,000. The bond is to be \$25,000 for every one (1) mile of road. This \$25,000 figure may be adjusted annually in accord with inflation by an annual resolution of the Town Board.
 - b. An individual has the option to post an annual "blanket" bond in the amount of \$250,000 to cover all Town roads he may use during a one (1) year period. This figure may be adjusted annually in accord with inflation by an annual resolution of the Town Board.
 - c. BOND REQUIREMENTS:
 - i. All bonds must be provided sealed with the corporate seal of the bond underwriter, and signed by the required corporate or individual authority for the bond holder.
 1. In lieu of a corporate seal upon the bond, a corporate resolution authorizing the bond, which is sealed with the corporate seal and signed by the corporate president, along with a Certification of Authorization (also sealed

with the corporate seal) by the corporate security certifying that the authorizing resolution is a full, true and direct copy.

- ii. The bond is to be for a period of one (1) year. If the operation requiring the road use is to be more than one (1) year, the bond must be renewed and written notice is to be provided to the Town Board of the bond applicant's intended use of the road for more than one year.
- iii. On all bonds, the Town is to be named as the additional payee.
- iv. All bonds, with their associated documents, are to be kept by the Town Clerk in the Town Office until they are expired.
- v. All bonds must be verified for authenticity by the Town Insurance Agent.
- vi. All bonds must be obtained from an insurance carrier who is duly licensed to conduct insurance operations within the State of New York.

Upon completion of these requirements, the bonded corporation or individual will then call upon the Town Highway Superintendent to sign his permit, which said permit shall state what roads the bonded corporation or individual may use. Upon approval by the Highway Superintendent, the bonded corporation or individual will be granted a permit, which will state the amount of the bond (also called a surety bond). The Town Board shall then, upon completion of these requirements, grant the Highway Superintendent the authority to issue a permit providing appropriate exemption of such vehicle.

Upon completion of the project and following a reasonable inspection by the Highway Superintendent that determines that no damage occurred to the road, the Town may release the bond to the bonded individual or corporation. Where an inspection determines that the bonded individual or corporation's permitted activity has caused damage to the roads named in the permit, the Town Highway Superintendent shall document this damage, and cash the bond. The bond monies may only be used for the repairs of the damaged roads.

Where the bonded individual or corporation disputes the Highway Superintendent's finding that the bond must be forfeited to the Town, either wholly or partially, in order to pay for road repairs, the

bond will not be released until the Town is ordered to do so by a Court of competent jurisdiction.

2. Other Financial Security

- a. Joint Bank Account – In lieu of a bond, an individual or corporation may place an equivalent amount of money into a joint bank account within the Town.
 - i. The account is to be an “and” account, not an “or” account, requiring the signature of the Town Supervisor for the second party to withdraw their funds upon completion of a road project that resulted in no damage to the Town roads. The Town will require that on this account the individual's name be on it, along with the Town's name and that nobody will withdraw money from the account without the other parties' permission.
 - ii. The account is to be at a bank which is the official town depository in the State of New York.

Upon completion of these requirements, the joint bank account holder will then call upon the Town Highway Superintendent to sign his permit, which said permit shall state what roads the joint bank account holder may use. Upon approval by the Highway Superintendent, the joint bank account holder will be granted a permit, which will state the amount of money in the joint bank account. The Town Board shall then, upon completion of these requirements, grant the Highway Superintendent the authority to issue a permit providing appropriate exemption of such vehicle.

Upon completion of the project and following a reasonable inspection by the Highway Superintendent that determines that no damage occurred to the road, the Town may release the account to the joint account holder. Where an inspection determines that the joint bank account holder's permitted activity has caused damage to the roads named in the permit, the Town Highway Superintendent shall document this damage, and use the funds in the joint bank account to repair said damage. The account monies may only be used for the repairs of the damaged roads.

Where the joint account holder disputes the Highway Superintendent's finding that the account must be forfeited to the Town, either wholly or partially, in order to pay for road repairs, the account will not be released until the Town is ordered to do so by a Court of competent jurisdiction.

- b. Certified Check – A certified check, made out to the Town in the amount that otherwise would be bonded, will be held by the Town. Validity of the check shall be verified by the Town's local depository.

Upon completion of these requirements, the certified check holder will then call upon the Town Highway Superintendent to sign his permit, which said permit shall state what roads the certified check holder may use. Upon approval by the Highway Superintendent, the certified check holder will be granted a permit, which will state the amount of the certified check. The Town Board shall then, upon completion of these requirements, grant the Highway Superintendent the authority to issue a permit providing appropriate exemption of such vehicle.

Upon completion of the project and following a reasonable inspection by the Highway Superintendent that determines that no damage occurred to the road, the individual or corporation may retrieve the check. Where an inspection determines that the certified check holder's permitted activity has caused damage to the roads named in the permit, the Town Highway Superintendent shall document this damage, and cash the check. The certified check monies may only be used for the repairs of the damaged roads.

Where the individual or corporation disputes the Highway Superintendent's finding that the certified check must be forfeited to the Town, either wholly or partially, in order to pay for road repairs, the certified check will not be released until the Town is ordered to do so by a Court of competent jurisdiction.

Section 6: Posting Roads/Publishing Notice

1. The Highway Superintendent must post a sign, on the road in question, stating that such vehicles over such weight are excluded from the roads and notice that such vehicles are excluded shall be published in the official town newspaper, which is where the highway is located. Such publication and posting must take place yearly.

Section 7: Permit

1. Every permit granted shall be carried on the vehicle to which it refers and shall be open to inspection of any peace officer acting pursuant to special duties, or police officers.

Section 8: Reservation of Town's Rights

The Town hereby retains and reserves all rights it has now or may have hereafter, pursuant to the provisions of subdivision 3 of section 23-0303 of the Environmental Conservation Law, to request funds (by filing a request therefore with the New York State Commissioner of Environmental Conservation) from the oil and gas fund to reimburse or compensate the Town for costs related to repairing damages to any Town Road, or other town property.

The Town hereby retains and reserves all rights it has now or may have hereafter, pursuant to Navigation Law Article 12 to make a claim against New York Environmental Protection and Spill Compensation Fund to reimburse or compensate the Town for cost related to repairing damages to any Town Road or other town property.

The Town hereby retains and reserves all other rights it has now or may have hereafter, to seek reimbursement or compensation for costs related to repairing damages to any Town Road or other town property.

Section 9: Exemptions

All postal, United Parcel Service (UPS), FedEx, food delivery, fuel delivery, fuel oil, septic pumping, garbage pickup, utility trucks (excluding utility subcontractors), medical deliveries and/or services, police, fire vehicles or other emergency vehicles are exempt from the provisions of this law. Further, nothing contained in this local law shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agricultural and Markets Law.

Section 10: Validity

If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be finally adjudged by a court of competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part

thereof directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this Local Law would have been adopted had any such provisions not been included.

Section 11: Effective Date

This law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2016 of the ~~(County)(City)(Town)(Village)~~ of Lyndon was duly passed by the Town Board on June 14 2016, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)*
(repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)*
on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)*
(repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)*
(repassed after disapproval) by the _____ on _____ 20____. Such local *(Elective Chief Executive Officer*)*
law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

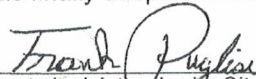
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: June 17 2016

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
WWW.DOS.NY.GOV

ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

June 22, 2016

Town of Lyndon
852 Lyndon Center Rd.
Cuba, NY 14727

RE: Town of Lyndon, Local Law 3 2016, filed on June 22, 2016

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**